

AMENDED IN SENATE JULY 2, 2012
AMENDED IN ASSEMBLY MAY 25, 2012
AMENDED IN ASSEMBLY MAY 2, 2012
AMENDED IN ASSEMBLY APRIL 19, 2012
AMENDED IN ASSEMBLY MARCH 29, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2508

**Introduced by Assembly Member Bonilla
(Coauthor: Assembly Member Beall)**

February 24, 2012

An act to add Chapter 3.7 (commencing with Section 12140) to Part 2 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2508, as amended, Bonilla. Public contracts: public health agencies.

Existing law requires a state agency to comply with specified procedures in awarding agency contracts.

This bill ~~would prohibit~~, with specified exceptions, ~~also prohibit~~ a state agency authorized to contract for public benefit programs from contracting for call center services with a contractor or subcontractor unless that contractor or subcontractor certifies ~~under penalty of perjury~~ in his or her bid for the contract that the contract, and any subcontract performed under that contract, will be performed solely with workers employed in California. *This bill would impose a civil penalty, as provided, for knowingly providing false information in that certification.*

This bill would specify that the Governor may waive these requirements during a declared emergency. This bill would also require the contract to include a clause for termination for noncompliance and specified penalties, if the contractor or subcontractor performs the contract or the subcontract with workers outside of California during the life of the contract.

~~By requiring contractors and subcontractors to make certifications under penalty of perjury, this bill would create a new crime and thereby impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~*no*.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) The federal and state economies are recovering from the
- 3 great recession and California still has a high unemployment rate.
- 4 Millions of Californians are not working or are working less than
- 5 they want and need full-time employment. California continues
- 6 to allow state public benefit call center contracts to be awarded to
- 7 contractors that perform the work outside the United States.
- 8 (b) By contracting and subcontracting outside of the country,
- 9 jobs are displaced in the United States and in California, and
- 10 taxpayer dollars are used to create jobs in foreign countries. State
- 11 tax revenues should be used to create jobs in the United States and
- 12 in California, especially when the taxpayer dollars are designated
- 13 for programs meant to create jobs and address problems associated
- 14 with joblessness.
- 15 SEC. 2. Chapter 3.7 (commencing with Section 12140) is added
- 16 to Part 2 of Division 2 of the Public Contract Code, to read:

CHAPTER 3.7. PROHIBITION OF THE OFFSHORING OF STATE
PUBLIC BENEFITS CONTRACTS

12140. (a) Notwithstanding any other law, any state agency authorized to enter into contracts for public benefit programs shall not contract for call center services for those public benefit programs with a contractor unless that contractor certifies ~~under penalty of perjury~~ in his or her bid for the contract that the contract, or any part thereof, and any subcontract performed under that contract, will be performed solely with workers employed in California. *Any contractor that knowingly provides false information in the certification required by this subdivision shall be subject to a civil penalty in an amount of up to ten thousand dollars (\$10,000), in addition to any other remedies available to the state agency. An action for a civil penalty under this subdivision may be brought by any public prosecutor in the name of the people of the State of California.*

(b) For purposes of this section:

(1) “Call center” means a building, facility, or operation where customer or client services or assistance is provided by telephone, fax, email, text, or Web-based interaction.

(2) “Public benefit programs” means California Work Opportunity and Responsibility to Kids (CalWORKs), CalFresh, Medi-Cal, Healthy Families, and the California Healthcare Eligibility, Enrollment, and Retention System.

(c) The contract shall provide that in the event a contractor or subcontractor performs the contract or the subcontract for call center services with workers outside of California during the life of the contract, the contract shall be terminated for noncompliance and the contractor or subcontractor shall pay a penalty to the state agency in an amount equal to the amount paid by the state agency for the percentage of work that was performed with workers outside of California.

(d) The requirements of subdivision (a) shall not apply if the Governor waives those requirements pursuant to Section 8571 of the Government Code.

(e) This section shall not apply to the following:

(1) A contract if the refusal to award that contract, on the basis that the contractor or subcontractor does not certify ~~under penalty of perjury~~ that the contract and any subcontract performed under

1 that contract will be performed solely with workers within
2 California, would violate the specific terms of the Agreement on
3 Government Procurement of the World Trade Organization or any
4 other bilateral or regional free trade agreement to which the State
5 of California has consented.

6 (2) A contract or subcontract, currently in place, if it would
7 result in a violation of the terms of the contract, but upon expiration
8 of that contract, these provisions shall be added before a new
9 contract can be executed or renewed.

10 (3) A contract for a public benefit program between a state
11 agency and a health care service plan or a specialized health care
12 service plan regulated by the Department of Managed Health Care,
13 and any subcontract performed under that contract, or a disability
14 insurer or specialized health insurer regulated by the Department
15 of Insurance, and any subcontract performed under that contract.

16 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
17 ~~Section 6 of Article XIII B of the California Constitution because~~
18 ~~the only costs that may be incurred by a local agency or school~~
19 ~~district will be incurred because this act creates a new crime or~~
20 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
21 ~~for a crime or infraction, within the meaning of Section 17556 of~~
22 ~~the Government Code, or changes the definition of a crime within~~
23 ~~the meaning of Section 6 of Article XIII B of the California~~
24 ~~Constitution.~~